FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

Second Appeal No. 418/2003
(*Rambhau Ukandrao Barmase & 4 others* **VERSUS** *Nathu Vithobaji Tirgul & 2 others***)**

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

CORAM : Smt. Vasanti A. Naik, J.
DATE : 5th July, 2007.

Heard Shri Charpe, the learned counsel for the appellant and Shri Kadukar, Advocate holding for Shri Parchure, the learned counsel for the respondents.

The appellant is the original plaintiff. A suit was filed by the plaintiff for declaration that he has a right of way, “AB”, which was a prescriptive right. According to the plaintiff, the defendant has wrongfully obstructed the plaintiff.

The trial as well as the appellate Court concurrently held that the plaintiff had failed to prove that he had a prescriptive right of way through the way marked by letters AB. The Courts further held that the plaintiff had failed to prove that the defendant had unlawfully obstructed the plaintiff from using the

suit way. Consequently, the declaration and permanent injunction was not granted in favour of the plaintiff.

The findings recorded by both the Courts are based upon the proper appreciation of material evidence on record. None of the questions of law stated in the memorandum of appeal are in fact substantial questions of law. The findings recorded by both the Courts do not give rise to any substantial question of law and hence, the Second Appeal is dismissed with no order as to costs.

JUDGE

APTE